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Supreme Court, U.S.
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No. 95-1628

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1995

JACK LEHTINEN,

Petitioner,

v.

QUANTUM CHEMICAL CORPORATION,

Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

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BRIEF IN OPPOSITION

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QUESTION PRESENTED FOR REVIEW

I. WHETHER THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT ERRED IN AFFIRMING THE SUMMARY JUDGMENT ENTERED BY THE DISTRICT COURT IN THIS BREACH OF CONTRACT ACTION WHERE THE COURTS BELOW HELD THAT UNDER THE UNDISPUTED FACTS, RESPONDENT WAS ENTITLED TO JUDGMENT AS A MATTER OF KENTUCKY CONTRACT LAW.

LIST OF AFFILIATED CORPORATIONS

Quantum Chemical Corporation is a wholly owned subsidiary of Hanson, PLC. Hanson, PLC shares are publicly traded on the New York Stock Exchange as American Depository Receipts ("ADR"). Quantum Chemical Corporation has the following subsidiaries:

Quantum Chemical (Canada) Ltd., an Ontario corporation

CUE Insurance Limited, a Bermuda corporation

DR Insurance Company, a Kentucky corporation

NDCC International Inc., a St. Croix corporation

National Distillers & Chemical Corporation, a Delaware corporation (namesaver)

Quantum Acceptance Corporation, a Delaware corporation

H.W. Loud Co., a California corporation

USI Chemicals International, Inc., a Delaware corporation

Quantum Petrochemical Corporation, a UK corpo ration (90% QCC and 10% H.W. Loud Co.)

Quantum UK Limited, a UK corporation (25% USI Chemicals Int'l., Inc. and 75% Hanson Holdings (1) Limited)

Quantum Chemical Europe B.V., a Netherlands corporation (100% Quantum UK Limited)

Quantum Pipeline Company, an Illinois corpora tion

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JACK LEHTINEN ..... **Petitioner**

versus

QUANTUM CHEMICAL CORPORATION ... ***Respondent***

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE SIXTH CIRCUIT

Respondent respectfully requests that the Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit be denied.

OPINIONS BELOW

Both lower court opinions are unpublished. The case number in the United States District Court for the Western District of Kentucky is C92-0325-L(CG). The case number in the United States Court of Appeals for the Sixth Circuit is 94-6420.

RULE INVOLVED

Rule 56, Federal Rules of Civil Procedure, provides in relevant part:

"(b) For Defending Party. A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in the party's favor as to all or any part thereof.

(c) Motion and Proceedings thereon.... The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law."

STATEMENT OF THE CASE

Jurisdiction of the United States District Court was invoked under 28 U.S.C. § 1332 because of diversity of citizenship. The plaintiff is a resident of the State of Nevada and the defendant is organized and existing under the laws of the Commonwealth of Virginia, with its principal place of business at 11500 Northlake Drive, Cincinnati, Ohio.

Respondent adopts the Statement of Material Facts set forth by the Magistrate Judge in the Memorandum and Opinion entered July 21, 1994 and appended to the Petition.

REASONS FOR DENYING THE WRIT

Petitioner has presented no special or important reasons why the decision of the United States

Court of Appeals for the Sixth Circuit should be reviewed by this Court. This matter involves no more than the application of well-established law governing summary judgment practice in the federal courts to a contract dispute. The Petition for a Writ of Certiorari should be denied.

For the first time in this litigation, the Petitioner now attempts to couch the issues presented in this dispute as implicating rights granted him by the United States Constitution. He argues that, in his view, the lower court erred in granting summary judgment for the Respondent and the court of appeals erred in affirming that decision. Based simply upon his disagreement with the judgment, Petitioner argues that his constitutional rights to a trial by jury and to "due process" have been denied him. These issues were not raised or addressed before either court below.

There are no constitutional rights implicated in this matter. Instead, the only issue presented by the Petition is whether, under the standards set forth in Fed. R. Civ. P. 56, summary judgment on behalf of the Respondent was proper. Those standards have been fully developed in prior opinions of this Court. See, e.g., Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 106 S.Ct. 2505 (1986); Celotex Corp. v. Catrett, 477 U.S. 317, 106 S.Ct. 2548 (1986); Matsushita Electrical Industrial Co. v. Zenith Radio Corp., 475 U.S. 574, 106 S.Ct. 1348 (1986).

Indeed, Petitioner does not argue that either the District Court or the Court of Appeals utilized an improper standard in considering Respondent's motion for

summary judgment. He simply disagrees with the outcome. However, even assuming there was any merit to the Petitioner's argument, the correctness of a decision below is not meant to be the central focus of this Court's certiorari jurisdiction. "This court's review ... is discretionary and depends upon numerous factors other than the perceived correctness of the judgment we are asked to review." Ross v. Moffit, 417 U.S. 600, 616-17 (1974). Petitioner never raised any constitutional issues until he had exhausted all means of review below and only this Court remained.

The Magistrate Judge, who, by agreement, ruled upon the motions for summary judgment filed by both parties, "carefully reviewed all of the depositions, exhibits and pleadings of the parties," and ruled that "the undisputed facts, when analyzed according to Kentucky law, fully entitled the defendant to entry of summary judgment." [A-63]. The Court of Appeals for the Sixth Circuit affirmed in a per curiam opinion, finding that the Magistrate Judge, "in an exhaustive opinion," set out in detail and demonstrated conclusively why Kentucky contract law mandated summary judgment against the Petitioner [A-67]. There are no novel or important principles of law presented, and no issues of public interest implicated by those decisions. This is a contract dispute resolved by means of summary judgment. Accordingly, the exercise of this Court's certiorari jurisdiction is unwarranted.

CONCLUSION

For the foregoing reasons, Respondent respectfully requests that the Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit be denied.

Respectfully submitted,

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